IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6533 OF 2005

Satish Sadanand Patil. ... Applicant.
Versus.
State of Maharashtra. ... Respondent.

Shri D.N.Salvi for the Applicant.
Ms.S.D.Shinde, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.
DATED : 4th October, 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State.

2. A perusal of the order passed by the learned Sessions Judge on the application for anticipatory bail filed by the Applicant shows that on the date fixed for hearing before the Sessions Court, the Applicant was absent. The application has been rejected only on the ground of his absence without reference to merits. In the present application, the Applicant has offered an explanation for his absence. In view of what is stated in paragraph 9 of the application, it appears that there was sufficient cause for the Applicant to remain absent on the day on which the Application was to be heard by the learned Sessions Judge. In my view in the light of the explanation which is offerred in this application, the application for anticipatory bail made by the Applicant before the Sessions Court deserves to be heard afresh.

3. The learned Advocate for the Applicant invited my attention to prayer clause (d) in this application. He pointed out the averments made in the application and in particular in paragraph 5 thereof in support of the said prayer. In view of the averments made in paragraph 5, if the record which is referred to is not produced by the State, the learned Sessions Judge will be free to pass appropriate directions.

3. Hence this application is disposed of by the following order:

(i) The order passed by the learned Additional Sessions Judge in anticipatory bail Application No.1267 of 2005 on 28th September 2005 is set aside and the application is restored subject to condition that the Applicant will remain present before the learned Additional Sessions Judge on 10th October 2005 at 11.00 a.m.

(ii) If the Applicant remains present before the learned Additional Sessions Judge at 11.00 a.m. on 10th October 2005, the learned Judge will proceed to decide the Application in accordance with the law. The learned Judge will decide the

Application as expeditiously as possible and preferably within a period of two weeks from that day.

(iii) If the Applicant appears before the learned Additional Sessions Judge on 10th October 2005 as directed earlier, till disposal of the Application made by the Applicant before the Sessions Court, ad-interim relief granted by this Court in this Application on 30th September 2005 will continue to operate.

(iv) The learned Additional Sessions Judge will consider the prayer made in prayer clause (d) of this application in accordance with law in the light of the observations made in this order.

(v) The learned Additional Sessions Judge will decide the application on its own merits without being influenced by the grant of ad-interim relief by this Court.

(vi) The parties and the concerned Court to act on an authenticated copy of this order.

Judge.